IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 2729 OF 2006

IN

FIRST APPEAL NO. 476 OF 2004

Office Notes, Office Memoranda of Coram, appearances, Court's Orders or directions and Registrar's Orders	Court's or Judge's Orders

R.D. Suryavanshi for the appellants.
Ms. Bhavana Bhatt for respondent no.1.

CORAM: S.B. DESHMUKH, J.
DATE : AUGUST 19, 2006.

P.C. :

1. Heard learned counsel for the parties.

2. Learned counsel for the appellant, submits, that applicant no.2 died during the pendency of this application.

3. The applicants in this application were claimants/applicants

in Application bearing no. (WCA) 420/B-68 of 1997 filed before the Ninth Labour court at Mumbai. The learned Commissioner for Workmen's Compensation after hearing the parties, allowed the application partly and held the Opposite Party and Insurance company jointly and severally liable to pay the compensation amount of Rs.2,03,850/- with interest at the rate of 9% p.a. from the date of accident i.e. 27.1.1996 till its realization. The respondent no.1/Original applicant/Insurance Company has deposited an amount of Rs.3,44,586/- with the Learned Commissioner for Workmen's compensation.

4. The applicant is seeking withdrawal of this amount of compensation which is now with the learned Commissioner for Workmen's

compensation. The date of death of Surender Singh Harbhajan Singh undoubtedly, is January 27, 1996. i.e. during the pendency of this appeal. In these circumstances, this application can be partly allowed. The Insurance Company cannot be held liable and responsible for paying the interest unless it is established that there is contract to that effect between the Insurance Company and the Employer. Learned counsel for Respondent no.1/Insurance Company seeks some guarantee in case applicant is permitted to withdraw the amount of compensation. Learned counsel for the applicant submits that applicant no.2, is a house-wife and is not in a position to furnish security for withdrawal of such amount.

5. In this view of the matter,

in my view, the applicant no.2 can be directed to furnish security for an amount of Rs.50,000/- and also shall file undertaking in usual form, for an amount of Rs.50,000/-. With this safeguard an amount of Rs.2,03,850/- can be permitted to be withdrawn from the Learned Commissioner for Workmen's Compensation. The remaining amount, can be directed to be invested with some nationalised bank by the Learned Commissioner for Workmen's Compensation.

6. In the result, Civil Application is allowed. The applicant no.2 Smt. Gurdeep Kaur Harbhajan Singh is permitted to withdraw an amount of Rs.2,03,850/- from the learned Commissioner for Workmen's Compensation on furnishing security for an amount of Rs.50,000/-. The applicant no.2 also

shall file undertaking, for sum of Rs. 50,000/-, with the Learned Commissioner for Workmen’s Compensation.

7. The Learned Commissioner for Workmen’s Compensation shall invest the balance amount with the nationalised bank initially for period of 7 years. The said fixed deposit shall be renewed, however, after three years in the absence of any order from this court.

8. Civil Application is accordingly allowed in above terms and disposed off.

. The learned Commissioner for Workmen’s Compensation and parties concerned to act on authenticated copy of this order. Authenticated copy of this order be supplied to the

parties as per usual practice.

sd/-

(JUDGE)